IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

FEB 2 4 2017

David J. Bradley, Clerk of Court

EBONI NICOLE BALDWIN

PLAINTIFF (PRO SE)

CIVIL ACTION NO. 416-CV - 02966

v.

AMENDED COMPLAINT
TRIAL BY JURY IS REQUESTED

HARRIS COUNTY, SHERRIFF DEPUTY

LATOISHA DORSEY (SHIELD#),
in her official capacity as an employee of the HARRIS COUNTY SHERRIFF DEPARTMENT

DEFENDANT

AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW, EBONI BALDWIN (hereinafter referred to as "Ms. Baldwin" or " the Plaintiff"), complaining to the HARRIS COUNTY SHERRIFF DEPARTMENT LATOISHA DORSEY (hereinafter referred to as " the Defendant " or "Deputy Dorsey"), and for cause of action would respectfully, show unto this Honorable Court follows:

I. NATURE OF THE CASE

1. This is a civil action arising under the United States Constitution, particularly under the provisions of the Due Process Clause and the fourth and fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code 1983. Ms. Baldwin is seeking damages against Deputy Dorsey for committing acts, under color of law, with the intent and for the purpose of depriving Ms. Baldwin of rights secured by the Constitution and laws of the United States. Ms. Baldwin seeks compensatory and punitive damages, injunctive and declaratory relief, and such other reliefs, as the court deems equitable and just.

II. PARTIES

2. Plaintiff, EBONI BALDWIN, is a citizen of the United States currently residing in Ft. Bend County.

3. Defendant, HARRIS COUNTY, is a governmental entity located within the State of Texas, which may be served by delivering a copy of the summons and complaint to the Harris County City Attorney, Vince Ryan, 1019 Congress, 15th Floor, Houston, TX 77002.

4. Defendant, LATOISHA DORSEY, (S27585), is employed by the Harris County Sherriff Department and was acting within the scope of her employment and under color of statues, ordinances, rules and regulations, customs and usage of the Harris County. At the time of incident, Deputy Dorsey assumed her role as a Sherriff Deputy. Deputy Dorsey can be served with process by delivering a copy of the summons and complaint at an address to be provided under seal due to her role in law enforcement.

III. JURISDICTION AND VENUE

5. The actions arise under the Fourth, Eight, and Fourteenth Amendments to the United States Constitution, and under the Civil Rights Act of 1871, 42 U.S.C. sections 1983 and 1988. This court has jurisdiction of this cause under 28 U.S.C. sections 1331 and 1343. Venue is proper under 28 U.S.C. section 1391 in that the Defendant and Plaintiff reside and the cause of action arises in the Southern District of Houston, Texas Division. This Court also has supplemental jurisdiction to hear the state claims that will be set forth in this complaint.

IV. FACTUAL BACKGROUND

6. On September 27, 2014, the Ms. Baldwin left her home en route to the hospital for a psychiatric emergency. Ms. Baldwin began feeling severely depressed several hours after taking medication she received by mail by Veteran Affairs (VA) mental health practitioners to treat Post Traumatic Stress Disorder (PTSD), a mental health condition she was diagnosed with after serving in combat in Iraq and Afghanistan with the United States Army.

7. Ms. Baldwin looked for her cell phone to call the ambulance or family for help, but was unable to locate the device. Ms. Baldwin waited until she became calm and then grabbed the prescription medication she had taken to take with her to the hospital for analysis.

8. Ms. Baldwin was fully alert and conscious when she walked outside of her home and entered her car and began driving East on the street side of the I10 Freeway to West Houston Methodist Hospital to be evaluated and admitted for help.

9. Ms. Baldwin began to feel like she was "dying" as she attempted to turn into a Walgreens parking lot located at Westgreen Street, Houston, TX. AT this point, Ms. Baldwin was nearly 10 miles away from her home, less than 3 miles away from West Houston Methodist Hospital.

10. Ms. Baldwin, however, became unconscious and never made it into the parking lot of Walgreens.

11. Per statement in Administrative report # 14-142025, submitted by Deputy Dorsey, Ms. Baldwin, received help from a witness who told her he was calling the ambulance to help her.

12. Per statement in Administrative report # 14-142025, submitted by Deputy Dorsey and the Westlake EMS Medic #3, when the ambulance arrived, Ms. Baldwin was still unconscious and unresponsive. An EMT medic claims after shaking Ms. Baldwin she became conscious and explained to him that she was a Veteran with PTSD on her way to the hospital after having a reaction from what she believed could have been Ambien.

13. Per statement in Westlake EMS report, the EMT Medic #3 took the Plaintiffs blood pressure and although "low" stated Ms. Baldwin was fine.

14. Per statement in Westlake EMS report, EMT Medic #3 located the Plaintiffs prescription bottles and Zolpiem she was taking to the hospital to show doctors what she had taken.

15. Per statement in Administrative report # 14-142025, submitted by Deputy Dorsey, The Defendant arrived responding to an unknown "medical emergency".

16. Deputy Dorsey found Ms. Baldwin still unconscious and unresponsive in her vehicle when she approached her from an acute psychiatric emergency due to involuntary intoxication from prescription medication prescribed and mailed to her by Veteran Affairs (VA) mental health providers.

17. Per statement in Westlake EMS Report, all parties were aware Ms. Baldwin was a Veteran and suffering from PTSD and may have taken the medication due to suicidal ideation.

18. Per statement in Administrative report # 14-142025, submitted by Deputy Dorsey, the Defendant began to question the Plaintiff while she was unconscious, stating, "She (Ms. Baldwin) would go in and out" when speaking to her (Ms. Baldwin) and that she (Deputy Dorsey) had to "assist" her (Ms. Baldwin) out of the vehicle to handcuff her.

19. Ms. Baldwin opposes this claim and insists that Deputy Dorsey, forcibly grabbed her from her vehicle, handcuffing her, and pushing her into the Patrol car before going back to search her (Ms. Baldwin) car.

20. Officer Dorsey returned to her Patrol car and began questioning Ms. Baldwin, fully aware that Ms. Baldwin was still unconscious and partially unresponsive.

21. Per Video footage and recordings from the incident, Deputy Dorsey asks Ms. Baldwin if she wanted to go to the hospital. Ms. Baldwin, still unconscious and incompetent to respond, can be heard sounding groggy and responding to Deputy Dorsey with, "huh?" Deputy Dorsey can be heard repeating back Ms. Baldwin, "Oh, so you said you did not want to go to the hospital." Deputy Dorsey is then heard on the footage telling EMT, Ms. Baldwin stated she did not want to go to the hospital, which is false.

22. EMT left the scene by order of Deputy Dorsey.

23. As Deputy Dorsey drives into a parking lot, Ms. Baldwin asks Deputy Dorsey where she is taking her.

24. Deputy Dorsey tells Ms. Baldwin she has a warrant for a blood sample since she refused to give a field sobriety test.

25. Ms. Baldwin tells Deputy Dorsey she did not refused a field sobriety test and was willing to take one. She begins to explain to the Defendant, she was a Veteran on her way to the hospital because she was having PTSD complications.

26. Deputy Dorsey arrives with Ms. Baldwin to Houston Police Central Intox.

27. Ms. Baldwin now alert asks the Defendant again why she had not taken her to the hospital, she describes feeling like she is dying to Deputy Dorsey. Ms. Baldwin tells Deputy Dorsey that she does not want to die in jail and that she could not believe she had served her country to return home to go through this when all she was trying to do was get help. Ms. Baldwin explains to Deputy Dorsey her whole life; she has stayed away from drugs, alcohol and even cigarettes and that all she was trying to do was go to the hospital. Deputy Dorsey sounds amused by all of this as Ms. Baldwin begins praying in the back seat of her patrol car.

28. When Ms. Baldwin enters the room for her blood sample by Nurse Patton, Ms. Baldwin tells Nurse Patton, she is a Veteran with PTSD and that she needed to go to the hospital because she felt like she was dying from taking medication prescribed to her to treat her PTSD symptoms.

29. Nurse Patton asks Deputy Dorsey why she had not taken Ms. Baldwin to the hospital before bringing her to jail and Deputy Dorsey responds that her son had a sports game the next day and she was not going to miss her sons sports game behind the Ms. Baldwin.

30. Nurse Patton informs Deputy Dorsey that she needs to take Ms. Baldwin to the hospital. Deputy Dorsey responds that she was going to go ahead and take the defendant to the hospital, but if they made her wait more than an hour she was going to issue a warrant for Ms. Baldwin at the hospital because she (Deputy Dorsey) was not missing her sons game because of Ms. Baldwin and that Ms. Baldwin was going to jail no matter what.

31. Deputy Dorsey transports Ms. Baldwin to St. Joseph's hospital. By this time, Ms. Baldwin is in anxiety and feeling severely distressed from all that is going on. Ms. Baldwin informs the hospital staff she had taken some medications and she thought she might be having a reaction to the Ambien. Ms. Baldwin explains to the staff, she is feeling severely depressed and like she might be dying.

32. Ms. Baldwin is still not fully conscious as the medical providers run the same basic test as the ambulance before telling Officer Dorsey that Ms. Baldwin is clear to go in less than the hour Deputy Dorsey stated she would not stay past at the hospital with Ms. Baldwin for.

33. Deputy Dorsey then tells Ms. Baldwin that she was going to jail as she transported her from St. Joseph's Hospital Emergency Room back to CWC where she was AFIS and booked into the Harris County Jail.

34. Deputy Dorsey was fully aware the Plaintiff was suicidal, had PTSD, and was a Veteran in need of medical attention.

35. Deputy Dorsey was fully aware the Plaintiff was unconscious, unresponsive and a Veteran diagnosed with a psychiatric disorder and mental condition upon arriving to the scene and while on the scene.

36. The Defendant lacked probable cause to commence or continue a criminal proceeding against the Plaintiff whom she was aware was having an acute psychiatric emergency.

37. Deputy Dorsey did not have probable cause to arrest Ms. Baldwin after arriving to a "medical emergency" and being informed that Ms. Baldwin had a mental illness. Furthermore, Deputy Dorsey failed to contact Harris County Mental Crisis Unit or allow Ms. Baldwin to be fully evaluated at a hospital after arriving to the scene where she found her unresponsive and unconscious.

38. Deputy Dorsey was also able to locate prescription for the Ambien and several other medications prescribed to the Plaintiff, that she left in the car during the arrest. Deputy Dorsey was fully aware of the prescription bottles in Ms. Baldwin's car, along with the medication she states she found on her belonged to Ms. Baldwin. This justifies Ms. Baldwin's claims of False Arrest, medical Indifference and Malicious Prosecution.

39. Deputy Dorsey acted maliciously when she failed to take Ms. Baldwin to the hospital after identifying Ms. Baldwin was disabled and had mental disability in the form of PTSD.

40. Deputy Dorsey was fully aware Ms. Baldwin was having a Psychiatric emergency and should have issued a mental health warrant or at least had a member of the Harris County Sherriff Department Mental Crisis unit arrive to the scene before arresting Ms. Baldwin.

41. Deputy Dorsey's actions toward Ms. Baldwin were reckless and negligent as well as unjust and inhumane.

42. The Defendants actions were under the color of the law.

43. The Defendants actions were reckless and callously indifferent to the Plaintiffs federally protected rights.

V. CAUSE OF ACTION

A. 1983 – Unreasonable Seizure/False Arrest/ False Imprisonment (Fourth Amendment)

44. Ms. Baldwin asserts that she was unlawfully arrested on September 27, 2014 without probable cause to believe she committed a crime. The Fourth Amendment prohibits the police from carrying out unreasonable seizures,. An arrest is a "seizure under the Fourth Amendment. Under the Fourth Amendment, an arrest may only be made when a police officer has probable cause to believe the person arrested has engaged in criminal conduct. An arrest without probable cause is an unreasonable seizure.

45. Furthermore, Ms. Baldwin was unlawfully seized when Deputy Dorsey forcibly grabbed her out of her car while still unresponsive and unconscious and handcuffed her against her will. Deputy Dorsey had no lawful right to hold Ms. Baldwin against her will.

46. As stated in Paragraph 16, Ms. Baldwin was unconscious and unresponsive when Deputy Dorsey arrived. Ms. Baldwin did not pose any danger to Deputy Dorsey or anyone else at the time. Ms. Baldwin was unresponsive and Deputy Dorsey was aware of Ms. Baldwin's mental state and it was clearly obvious that Ms. Baldwin was not engaged in, had not committed, nor was about to commit criminal activity at the time of her arrest.

B. 1983 – Malicious Prosecution (Fourteenth Amendment)

47. Deputy Dorsey's criminal proceedings against Ms. Baldwin wrongly deprived Ms. Baldwin of her Fourteenth Amendment right to liberty. Deputy Dorsey did not have Probable Cause to arrest Ms. Baldwin. Deputy Dorsey was aware that the prescriptions found in Ms. Baldwin were prescribed to her. In fact, blood test could not determine the prescription in Ms. Baldwin's system, which could be led to believe that Ms. Baldwin may have been encountering hallucinations or other mental side effects from her PTSD diagnosis. Deputy Dorsey charged Ms. Baldwin for Possession of a Controlled Substance for prescription medication that she was able to identify belonged to her during her search of Ms. Baldwin's vehicle. It is reason to believe that Deputy Dorsey's claim against Ms. Baldwin were brought with malice and inhumane toward Ms. Baldwin since Deputy Dorsey was adamant about Ms. Baldwin going to jail, refusing her medical treatment, and telling her sons sports game superseded Ms. Baldwin's health at the time of her arrest.

C. 1983 – Deliberate Indifference (Fourteenth Amendment Violation)

48. Deputy Dorsey arrived to the scene while Ms. Baldwin was unconscious and unresponsive. Furthermore, EMT reports state Ms. Baldwin had PTSD. PTSD is a serious mental illness

with a high rate of suicides by Veterans returning from war. At the time of arrest, Deputy Dorsey was aware that Ms. Baldwin had a serious medical need. Deputy Dorsey stated she found pills in Ms. Baldwin's possession in which she booked her for Possession of a controlled substance. Deputy Dorsey's reports show Ms. Ms. Baldwin may have had suicidal ideation. The fact that Deputy Dorsey was aware of Ms. Baldwin's serious medical need and that she was having a psychiatric emergency, proves Deliberate Indifference.

49. Ms. Baldwin informed Deputy Dorsey in the back of her patrol car that she had PTSD and she felt like she was dying. Ms. Baldwin informed Deputy Dorsey that she needed to go to the hospital because she had taken prescribed medication for her PTSD that made her feel like she was dying and that she did not want to die. Ms. Baldwin suffered from several panic attacks being transported to have her blood drawn. All of these symptoms were of serious medical condition that required immediate attention.

50. Deputy Dorsey stated her delay in taking Ms. Baldwin to the hospital was because her son had a sports game that she was not going to miss because of her. Deputy Dorsey also claims that Ms. Baldwin refused medical attention while she was unresponsive and unconscious in her patrol car. Deputy Dorsey stated she was arresting Ms. Baldwin for denial of a field sobriety test after her reports clearly state Ms. Baldwin was not awake when she arrived and she knowingly arrived to the scene of a "Medical Emergency". Dorsey refused to get Ms. Baldwin medical treatment because she did not want to delay going to her son games proves to be cruel and inhumane treatment that violates Ms. Baldwin's constitutional rights.

51. Deputy Dorsey uncivilized actions, the lack of medical care, and prolonged imprisonment in the back of Deputy Dorsey's patrol car while Ms. Baldwin experienced multiple anxiety attacks caused Ms. Baldwin's PTSD symptoms to worsen. Deputy Dorsey's negligent action caused Ms. Baldwin severe emotional distress, depression and psychiatric treatments that led to Ms. Baldwin being hospitalized in the Veteran Affairs Hospital for 19 days after her arrest. Thus, causation is present.

VI. CLAIMS FOR RELIEF

52. Ms. Baldwin repeats and realleges each and every allegation contained in the paragraphs previously set forth.

53. As a direct and proximate result of the unlawful acts of Deputy Dorsey described herein, Ms. Baldwin has incurred economic damage including a loss of gainful employment and damage to her reputation and still suffers both physical pain and suffering and psychiatric injury all to plaintiff's damage in an amount which exceeds the jurisdictional monetary threshold of the Court, the specific amount to be proven at trial, plus reasonable attorneys' fees, costs and disbursements.

54. As a direct and proximate result of the intentional acts of Deputy Dorsey described herein, carried out in unjustly and maliciously, suffered economic damage including a loss of gainful employment and was caused to become physical and psychiatric illness and continues to suffer from severe and disabling shock, distress, anguish, sorrow, depression and loss of enjoyment of life.

55. Due to not getting immediate medical attention for Ms. Baldwin's PTSD, she become under distress and her PTSD symptoms worsen during her arrest. The aforesaid physical and psychological injuries sustained by plaintiff were caused wholly by reason of the intentional, reckless and/or negligent acts of Deputy Dorsey as described herein.

56. Officer Dorsey acted maliciously and with specific intent to oppress and harm plaintiff and/or with reckless disregard of the consequences of her actions, and as a result plaintiff is entitled to damages in an amount which exceeds the jurisdictional monetary threshold of the Court, the specific amount to be proven at trial.

57. Deputy Dorsey acted willfully, maliciously and/or with reckless disregard of the consequences of her actions. Accordingly, Ms. Baldwin is entitled to an award of punitive damages.

58. Ms. Baldwin is seeking injunctive relief. In order to counter the unlawful policies described herein, the named defendants and all other municipal employees must be trained and educated in order to protect the constitutional, statutory and common law rights of the mental ill and Veterans suffering from war related mental crisis.

VII. JURY TRIAL DEMAND

59. Plaintiff hereby demands trial by jury on all claims and issues so triable.

VIII. PRAYER FOR RELIEF

60. WHEREFORE, the plaintiff respectfully requests that this Court enter Judgment:

61. Permanently enjoining defendants from enforcing their customs, policies, patterns and practices as described herein that violate constitutional rights of the mentally ill;

62. Awarding the full amount of compensatory damages as the plaintiff prove at trial against all defendants jointly and severally;

63. Awarding the full amount of punitive damages as the jury determines to be appropriate;

64. Awarding reasonable attorneys' fees, costs and disbursements; and

65. Granting such other and further relief as to the Court seems just and proper.

Respectfully submitted,

EBONI N. BALDWIN
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